

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION**

INITIAL STATEMENT OF REASONS

Subject Matter of Regulations: Workers' Compensation – Predesignation of Personal Physician; Request for Change of Physician

TITLE 8, CALIFORNIA CODE OF REGULATIONS
Sections 9780 et seq.

Amend Section 9780	Definitions.
Amend Section 9780.1	Employee's Predesignation of Personal Physician.
Repeal Section 9780.2	Employer's Duty to Provide First Aid and Emergency Treatment.
Amend Section 9781	Employee's Request for Change of Physician.
Amend Section 9782	Notice to Employee of Right to Choose Physician.
Amend Section 9783	DWC Form 9783 Predesignation of Personal Physician.
Propose Section 9783.1	DWC Form 9783.1 Notice of Personal Chiropractor or Personal Acupuncturist.
Repeal Section 9784	Duties of the Employer.

BACKGROUND TO REGULATORY PROCEEDING

These proposed regulations are required by a legislative enactment - Senate Bill 899 (Chapter 34, stats. of 2004, effective April 19, 2004). Senate Bill 899 amended Labor Code section 4600 which addresses medical treatment provided by an employer; liability for reasonable expenses; predesignation of a personal physician; expenses incurred in submitting to an examination; and the right to a qualified interpreter.

Amended Labor Code section 4600(c) provides that unless the employer or the employer's insurer has established a Medical Provider Network as provided for in Section 4616, after 30 days from the date the injury is reported, the employee may be treated by a physician of his or her own choice or at a facility of his or her own choice within a reasonable geographic area.

Amended Labor Code section 4600(d)(1) provides that if an employee has notified his or her employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by that physician from the date of injury if either of the following conditions exist: the employer provides nonoccupational group health coverage in a health care service plan, licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, or the employer provides nonoccupational health coverage in a group health plan or a group health insurance policy as described in Section 4616.7.

Amended Labor Code section 4600(d)(2) provides that for purposes of paragraph (1), a personal physician must be the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, and must be the employee's primary care physician who has previously directed the medical treatment of the employee, and retains the employee's medical history and medical records. The physician must also agree to be predesignated.

Amended Labor Code section 4600(d)(3) provides that if the employer provides nonoccupational health care pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, and the employer is notified pursuant to paragraph (1), all medical treatment, utilization review of medical treatment, access to medical treatment, and other medical treatment issues shall be governed by Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code. Disputes regarding the provision of medical treatment shall be resolved pursuant to Article 5.55 (commencing with Section 1374.30) of Chapter 2.2 of Division 2 of the Health and Safety Code.

Labor Code section 4616 provides that an employer may establish a Medical Provider Network. An employee who predesignates a personal physician, however, may choose to be treated outside of the Medical Provider Network by his or her personal physician. Labor Code section 3551 provides that written notice to new employees shall include a form that the employee may use as an optional method for notifying the employer of the name of the employee's "personal physician" as defined in section 4600 or "personal chiropractor" or "personal acupuncturist" as defined by section 4601.

The amendments to Labor Code section 4600 made substantial changes to the rules pertaining to predesignation. Many predesignations made under the former law will no longer satisfy the new requirements; however, employees are not aware of the changes to the law. The proposed regulations clarify how the new rules will be interpreted and provide an optional predesignation form. It is important that all California workers know how to properly predesignate a personal physician. This information must be given to a worker as soon as possible because if the worker fails to properly predesignate a personal physician *prior* to injury, he or she will not be able to do so after the injury occurs. If an injured worker does not properly predesignate his or her personal physician, the employer will have control over the employee's medical treatment for the first thirty days from the date the injury is reported unless the employer has a medical provider network, in which case the employee will be required to treat with a physician from within the medical provider network until the injury is resolved. Additionally, the regulations provide the requirements regarding requesting a change of physician and an optional form for an employee to notify the employer of the employee's personal chiropractor's or personal acupuncturist's name and address. The regulations also require the claims administrator to provide notice of the regulations' requirements to the employees and the selected physician, chiropractor or acupuncturist.

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS

The Division relied upon:

Commission on Health and Safety and Workers' Compensation, Workers' Compensation Medical Care in California: Costs, Fact Sheet Number 2, August 2003,
http://www.dir.ca.gov/chswc/WC_factSheets/WorkersCompFSCost.pdf;

Outline: Estimating the Range of Savings from Introduction of Guidelines Including ACOEM (Revised), Frank Neuhauser, UC DATA/Survey Research Center, University of California, Berkeley, October 20, 2003,
<http://www.dir.ca.gov/chswc/EstimatingRangeSavingsGuidelinesACOEM.doc>.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

No specific technology or equipment is required.

FACTS ON WHICH THE AGENCY RELIES IN SUPPORT OF ITS INITIAL DETERMINATION THAT THE REGULATIONS WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON BUSINESS

Employers are already required to provide notice of workers' compensation benefits to their employees and to authorize medical treatment. Labor Code section 4600 previously allowed employees to predesignate a personal physician. These regulations only interpret amended Labor Code section 4600 requirements which mandate specific language regarding predesignating a personal physician.

1. Amended Section 9780. Definitions.

Specific Purpose of Section 9780:

Section 9780 lists and defines the terms used in these regulations. The purpose of the definitions is to implement, interpret, and make specific Labor Code section 4600 and to ensure that the meanings of the terms are clearly understood by the workers' compensation community.

This section is amended to provide definitions for several key terms. New definitions added to section 9780 are: "Emergency health care services," "Claims Administrator," "Nonoccupational group health coverage," and "Primary Care Physician." The definition which has been retained unchanged is "Facility." The definitions of "First aid," "Personal physician," and "Reasonable geographic area" have been changed in the amended definitions. Definitions which have been deleted in the amended section are "Employer," "Employee," "Physician," "Emergency treatment," and "Employee-selected physician."

Necessity:

It is necessary to define each of the key terms used in the predesignation regulations to ensure that the content and meaning of the regulations are clearly understood by the workers' compensation community.

Specifically, the definitions of "Emergency health care services," which replaces the deleted "emergency treatment" definition, and the definition of "first aid" are necessary so the parties understand the extent of treatment that may be controlled by the employer if the employee has predesignated a personal physician. (The terms are referred to in section 9780.1(h).) Additionally, it is necessary to amend the definition of "first aid" to clarify that the definition only includes one follow-up visit, not unlimited visits. There has been some uncertainty with regard to the words "any follow-up visit" in the previous version. Also, Labor Code 5401(a) requires employers to provide claim forms to injured employees for injuries which result in lost time or in medical treatment beyond first aid, and Labor Code section 6409.1(a) requires employers to file a report of every occupational injury that results in lost time and requires medical treatment beyond first aid. Because there are additional requirements once an injury results in treatment beyond first aid, it is necessary that the definition for first aid is clear.

It is necessary to define and clarify "Nonoccupational group health coverage" because this is a term used in Labor Code section 4600 which can have different meanings. There were questions in the workers' compensation community as to whether the term includes a health plan negotiated between a union or employee's association and the employer, and therefore, the definition clearly includes this situation.

It is necessary to amend the definition of "person physician" to comply with the statutory language of Labor Code section 4600. A definition for "primary care physician" is necessary because the term is used in Labor Code section 4600(d)(2)(B) and could have many meanings. It is one of the requirements for a physician to be designated a personal physician.

"Reasonable geographic area" is amended by replacing the word "domicile" with "place of residence." This change is necessary to make the term more easily understood.

The deleted terms were either replaced by new terms or are no longer needed or referred to in the statute and regulations.

Consideration of Alternatives:

No more effective alternative to any of the definitions, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time.

2. Amended Section 9780.1 Employee's Predesignation of Personal Physician.

Specific Purpose of Section 9780.1:

The purpose of amending this section is to ensure that the regulation complies with the statutory mandates of amended Labor Code section 4600. Previously, Labor Code section 4600 allowed any employer to predesignate his or her personal physician as long as the employer was notified in writing prior to the injury. Labor Code section 4600 was amended to limit the right to predesignate a personal physician if the employee predesignates in writing prior to the industrial injury if either (1) the employer provides nonoccupational group health coverage in a health care service plan, licensed pursuant to Chapter 2.2 (commencing with section 1340) of Division 2 of the Health and Safety Code, or (2) the employer provides nonoccupational health coverage in a group health plan or a group health insurance policy as described in Labor Code section 4616.7. Labor Codes section 4600 also adds restrictions regarding the definition of a personal physician. Proposed amended section 9780 reflects these changes to the Labor Code.

Subdivision (a)(3) clarifies that the employee's predesignated physician must agree to be predesignated *prior* to the injury. The personal physician may sign the optional predesignation form provided for in section 9783 of the regulations as documentation of the agreement and may authorize a designated employee of the physician to sign the optional predesignation form. If the personal physician or his or her designee does not sign a predesignation form, the regulation clarifies that there must be other documentation that the physician agreed to be predesignated prior to the injury. The purpose of providing an optional form is to provide guidance regarding how to predesignate a personal physician and to reduce disputes concerning whether a personal physician has been properly predesignated.

The purpose of subdivisions (b), (c) and (d) is to ensure that if an employee has predesignated a personal physician prior to the effective date of these regulations, the prior predesignation is valid if the conditions above have been met. This will prevent employees from having to re-designate a personal physician. If the employer or employer's insurer has a Medical Provider Network, an employee's predesignation made in accordance with the provisions above shall be valid and the employee shall not be subject to the employer's Medical Provider Network transfer of care policy. The predesignated physician is also not required to make referrals to physicians in the employer's Medical Provider Network. The purpose of these paragraphs is to clarify how the predesignation of a personal physician applies when the employer or insurer has established a medical provider network.

The purpose of subdivision (e), which requires the employer to notify the employees of the requirements of this section and provide the employees with an optional form for predesignating a personal physician, is to ensure that the employees are informed regarding their right to predesignate and that they are provided with a form that meets the statutory requirements.

Subdivision (f) provides that unless the employee agrees, neither the employer nor the claims administrator shall contact the predesignated personal physician to confirm predesignation status or contact the personal physician regarding the employee's medical information or medical history prior to the personal physician's commencement of treatment for the industrial injury. The purpose of this paragraph is to protect the employee's right to privacy and the physician/patient relationship.

The purpose of subdivision (g) is to set forth the requirements the employer must follow once the employer knows of an employee's predesignation of a personal physician and once the employer becomes liable for an employee's treatment. Specifically, the claims administrator shall (1) authorize the predesignated physician to provide all medical treatment reasonably required to cure or relieve the injured employee from the effects of his or her injury; (2) provide the name and address of the person to whom billing for treatment should be sent; (3) where there has been treatment of an injury prior to commencement of treatment by the predesignated physician, arrange for delivery to the predesignated physician of all medical information relating to the claim, all x-rays, the results of laboratory studies done in relation to the injured employee's treatment; and (4) provide the physician with the fax number, if available, to be used to request authorization of treatment plans, the complete requirements of section 9785 and the forms set forth in sections 9785.2 and 9785.4. In lieu of providing the complete requirements of section 9785 and the forms set forth in sections 9785.2 and 9785.4, the claims administrator may refer the physician to the Division of Workers' Compensation's website where the applicable information and forms can be found. The purpose of these requirements is to ensure that the claims administrator will facilitate treatment by the predesignated physician and ensure that the physician is advised of the workers' compensation reporting requirements.

The purpose of subdivision (h) is to provide that the employer shall provide first aid and appropriate emergency health care services reasonably required by the nature of the injury or illness. It is essential the employee receive this emergency and first aid treatment without delay. If that further medical treatment is reasonably required to cure or relieve the injured employee from the effects of his or her injury, the claims administrator shall authorize treatment with the employee's predesignated personal physician. The purpose of this requirement is to clarify that the employer does not have control over the treatment of the employee who has predesignated once the emergency health care or first aid care has been completed.

The purpose of subdivision (i) is to clarify that if documentation of a physician's agreement to be predesignated has not been provided to the employer at the time of injury, treatment shall be provided in accordance with Labor Code section 4600 or 4616, if the employer or insurer has established a Medical Provider Network, as though no predesignation had occurred. However, upon provision of the documented agreement prior to injury that meets the conditions of predesignating a physician, the employer or claims administrator shall authorize treatment with the predesignated physician.

Necessity:

This amended section is necessary to interpret and clarify amended Labor Code section 4600. The pre-public comment period comments and advisory committee members indicated that there is a question as to whether the section applies if the employee is not covered under the employer's health plan. (For example, an employee may choose to be covered under his or her spouse's health insurance plan instead.) Thus, it is necessary for the regulation to clarify that the fact that the employer provides such coverage is sufficient to meet this requirement regardless of whether the employee accepts or participates in this health coverage. Pre-comment period comments also indicated that there were different interpretations as to the meaning of "the physician agrees to be predesignated." It is necessary to clarify that the physician's agreement must occur prior to the injury to avoid disputes and delay in treatment.

Subdivisions (b), (c) and (d) provide that if an employee has predesignated a personal physician prior to the effective date of these regulations, the prior predesignation is valid if the conditions above have been met. This is necessary because some commenters had suggested that new predesignations must be submitted.

Additionally, if the employer or employer's insurer has a Medical Provider Network, an employee's predesignation made in accordance with the provisions in the regulation shall be valid and the employee shall not be subject to the employer's Medical Provider Network transfer of care policy. The predesignated physician is also not required to make referrals to physicians in the employer's Medical Provider Network. These paragraphs are necessary because the Medical Provider Network program is new and the Labor Code does not delineate how a predesignation works in conjunction with a Medical Provider Network.

Subdivision (e), which requires the employer to notify the employees of the requirements of this section and provide the employees with an optional form for predesignating a personal physician, is necessary to ensure that the employees are informed regarding their right to predesignate and that they are provided with a form that meets the statutory requirements. If an employee desired to predesignate his or her personal physician but failed to do so either because he or she did not know how or failed to properly notify the employer of his or her selection, the injured worker would lose the right to be treated by his or her personal physician. By definition, an employee's personal physician knows the worker's medical history as well as personal history, may speak the same language, and is able to make medical decisions based on a prior history of treating the injured worker. By going to his or her personal physician for an industrial injury, that worker will not experience any delay in treatment that can occur when treating with a new physician who may have to spend time waiting for medical records, taking an extensive medical history, or ordering new medical tests of a patient the physician is seeing for the first time. Additionally, many employers and claims administrators have developed their own predesignation forms. Some of these forms have gone beyond the statutory language to require a predesignated physician to sign a form agreeing to be predesignated. Others have included onerous language which discourages a physician from participating as a

predesignated physician (for example, one form has included “at will” language which the physician was reluctant to sign). These types of forms have a detrimental effect on a worker’s right to be treated for an industrial injury by his or her personal physician.

Subdivision (f) provides that unless the employee agrees, neither the employer nor the claims administrator shall contact the predesignated personal physician to confirm predesignation status or contact the personal physician regarding the employee’s medical information or medical history prior to the personal physician’s commencement of treatment for the industrial injury. This paragraph is necessary to protect the employee’s right to privacy and the physician/patient relationship.

Subdivision (g) provides that once the employer knows of an employee’s predesignation of a personal physician and where the employer becomes liable for an employee’s treatment, the claims administrator shall (1) authorize the predesignated physician to provide all medical treatment reasonably required to cure or relieve the injured employee from the effects of his or her injury; (2) provide the name and address of the person to whom billing for treatment should be sent; (3) where there has been treatment of an injury prior to commencement of treatment by the predesignated physician, arrange for delivery to the predesignated physician of all medical information relating to the claim, all x-rays, the results of laboratory studies done in relation to the injured employee’s treatment; and (4) provide the physician with the fax number, if available, to be used to request authorization of treatment plans, the complete requirements of section 9785 and the forms set forth in sections 9785.2 and 9785.4. In lieu of providing the complete requirements of section 9785 and the forms set forth in sections 9785.2 and 9785.4, the claims administrator may refer the physician to the Division of Workers’ Compensation’s website where the applicable information and forms can be found. This section is necessary to ensure that the predesignated physician will be paid for his or her services, that the physician understands the billing and reporting requirements that are unique to workers’ compensation claims, and that the physician has been provided with medical records that he or she may not have. It is necessary that the physicians have an opportunity to review the regulations pertaining to their duties under the workers’ compensation system because if the physician fails to report to the claims administrator as required by the regulations, the claims administrator may file a petition to change physicians. Previously, the regulations required that the employer provide copies of the regulations in writing to the physician. Allowing the claims administrator to provide the DWC web site where the regulations are posted will ensure that the most recent and entire regulations are available to the physicians and will eliminate the need for the claims administrator to include copies of the regulations in every initial letter sent to the physicians.

Subdivision (h), which provides that the employer shall provide first aid and appropriate emergency health care services reasonably required by the nature of the injury or illness, and if afterwards further medical treatment is reasonably required to cure or relieve the injured employee from the effects of his or her injury, the claims administrator shall authorize treatment with the employee’s predesignated personal physician, is necessary to ensure that the employee and employer understand when the employer’s control over

medical treatment ends and when the predesignated physician's treatment of the employee begins.

Subdivision (i) provides that if documentation of a physician's agreement to be predesignated has not been provided to the employer at the time of injury, treatment shall be provided in accordance with Labor Code section 4600 or 4616, if the employer or insurer has established a Medical Provider Network, as though no predesignation had occurred. However, upon provision of the documented agreement prior to injury that meets the conditions of predesignating a physician, the employer or claims administrator shall authorize treatment with the predesignated physician. This subdivision is necessary to clarify how medical care will be provided when the predesignation submitted by the employee is not signed by the physician and documentation that the physician agreed to the predesignation was not submitted, and how the situation can be remedied.

Consideration of Alternatives:

No more effective alternative to any of the definitions, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time.

3. Repealed Section 9780.2. Employer's Duty to Provide First Aid and Emergency Treatment.

Specific Purpose of Repealing Section 9780.2:

The purpose of repealing this section is to delete the statements that are now contained in section 9780.1. The definitions of "First aid" and "Emergency health care services" are addressed in the definitions contained in amended section 9780.

Necessity:

It is necessary to repeal this section because the employer's duties are now contained in proposed section 9780.1 in more detail.

Consideration of Alternatives:

No more effective alternative to any of the definitions, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time.

4. Amended Section 9781. Employee's Request for Change of Physician.

Specific Purpose of Section 9781:

The purpose of this section is to set forth how an employee may request a change of physicians during the first 30 days following the report of injury and when an employee may be entitled to be treated by his or her personal acupuncturist or personal chiropractor. This section does not apply to medical provider networks.

The purpose of this section is also to ensure that the employer notifies its employees of the requirements for requesting a change of physician. The notification will inform the employee of his or her right to request a change of physician. The purpose of requiring the employer to provide the employee with an optional form for notification of a personal chiropractor or acupuncturist is to ensure that the employee properly designates his or her personal chiropractor or personal acupuncturist.

The purpose of subdivision (c) is to clarify how the employee shall notify the claims administrator that he or she has selected a physician of his or her choice. Some physicians or facilities require a release form from the patient before agreeing to report to the claims administrator as required by section 9785, therefore, the purpose of this paragraph is to facilitate the required reporting.

Subdivision (d) provides that when the claims administrator is notified of the name and address of an employee-selected physician or facility, or of a personal chiropractor or acupuncturist, the claims administrator shall (1) authorize the physician or facility or personal chiropractor or acupuncturist to provide all medical treatment reasonably required pursuant to section 4600 of the Labor Code; (2) furnish the name and address of the person to whom billing for treatment should be sent; (3) arrange for the delivery to the selected physician or facility of all medical information relating to the claim, all x-rays and the results of all laboratory studies done in relation to the injured employee's treatment; and (4) provide the physician with the fax number, if available, to be used to request authorization of treatment plans, the complete requirements of section 9785, and the forms set forth in sections 9785.2 and 9785.4. In lieu of providing the materials mentioned above, the claims administrator may refer the physician to the Division of Workers' Compensation's website where the applicable information and forms can be found. This section is necessary to ensure that the physician, chiropractor, or acupuncturist will be paid for his or her services, that the physician understands the billing and reporting requirements that are unique to workers' compensation claims, and that the physician has been provided with medical records that he or she may not have.

Necessity:

This section is necessary to clarify how an employee may request a change of physicians and when an employee may be entitled to be treated by his or her personal acupuncturist or personal chiropractor.

It is necessary for the employer to notify its employees of the right to request a change of physician and of the employee's right to be treated by a personal chiropractor or acupuncturist, otherwise many employees would be unaware of these rights. It is also necessary for the employer to be advised of the name and address of the chiropractor or acupuncturist so that the employer will be able to request the appropriate medical reports if the employee is injured. Some physicians or facilities require a release from the patient before agreeing to report to the claims administrator as required by section 9785, therefore, it is necessary to require the employee sign the release to allow for the required medical reporting.

Subdivision (d) is necessary to ensure that the employee selected physician, chiropractor or acupuncturist will be paid for his or her services, that the physician understands the billing and reporting requirements that are unique to workers' compensation claims, and that the physician has been provided with medical records that he or she may not have. It is also necessary that the physician, chiropractors or acupuncturist has an opportunity to review the regulations pertaining to their duties under the workers' compensation system because if the physician fails to report to the claims administrator as required by the regulations, the claims administrator may file a petition to change physicians. Previously, the regulations required that the employer provide copies of the regulations in writing to the physician. Allowing the claims administrator to provide the DWC web site where the regulations are posted will ensure that the most recent and entire regulations are available to the physicians and will eliminate the need for the claims administrator to include copies of the regulations in every initial letter sent to the physicians.

Consideration of Alternatives:

No more effective alternative to any of the definitions, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time.

5. Amended Section 9782. Notice to Employee of Right to Choose Physician.

Specific Purpose of Section 9782:

The purpose of this section is to ensure that every employee (except those who are subject to a Medical Provider Network) is notified of his or her right (1) to request a change of treating physician if the original treating physician is selected initially by the employer pursuant to Labor Code section 4601 and (2) to be treated by a physician of his or her own choice 30 days after reporting an injury pursuant to subdivision (c) of Labor Code section 4600.

Additionally, the purpose of this section is to require every employer to advise its employees in writing of an employee's right to predesignate a personal physician pursuant to subdivision (d) of Labor Code section 4600, and section 9780.1.

The purpose of this section is to clarify that notices listed in this section must be included in the notice to new employees (section 9880) and in the posted notice at the workplace (section 9881).

Necessity:

It is necessary that every employee be advised of his or her rights: (1) to request a change of treating physician if the original treating physician is selected initially by the employer pursuant to Labor Code section 4601; (2) to be treated by a physician of his or her own choice 30 days after reporting an injury pursuant to subdivision (c) of Labor Code section 4600; and (3) to predesignate a personal physician pursuant to subdivision (d) of Labor Code section 4600, and section 9780.1. Employees must be advised of these rights at the time of hire or by the end of the first pay period, so that if they choose to predesignate, they can do so prior to an injury. It is necessary for these rights to be included on the Notice of Employees poster so that the employer is in compliance with Labor Code section 3550 and so that the employee has a resource at the workplace which lists his or her rights with regard to medical care for industrial injuries.

Consideration of Alternatives:

No more effective alternative to any of the definitions, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time.

6. Amended Section 9783. DWC Form 9783 Predesignation of Personal Physician.

Specific Purpose of Section 9783:

The purpose of this section is to provide an optional form that is in compliance with the Labor Code and regulations for an employee to use when designating his or her personal physician.

Necessity:

The predesignation form is necessary because it provides employees with the option of using a form that meets the statutory requirements. If an employee desired to predesignate his or her personal physician but failed to do so either because he or she did not know how or failed to properly notify the employer of his or her selection, the injured worker would lose the right to be treated by his or her personal physician. By definition, an employee's personal physician knows the worker's medical history as well as personal history, may speak the same language, and is able to make medical decisions based on a prior history of treating the injured worker. By going to his or her personal physician for an industrial injury, that worker will not experience any delay in treatment that can occur when treating with a new physician who may have to spend time waiting for medical records, taking an extensive medical history, or ordering new medical tests of a patient the physician is seeing for the first time. Additionally, many employers and claims administrators have developed their own predesignation forms. Some of these forms have gone beyond the statutory language to require a predesignated physician to sign a form agreeing to be predesignated. Others have included onerous language which discourages a physician from participating as a predesignated physician (for example, one

form has included “at will” language which the physician was reluctant to sign). These types of forms have a detrimental effect on a worker’s right to be treated for an industrial injury by his or her personal physician.

Consideration of Alternatives:

No more effective alternative to any of the definitions, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time.

7. Proposed Section 9783.1 DWC Form 9783.1 Notice of Personal Chiropractor or Personal Acupuncturist.

Specific Purpose of Section 9783.1:

The purpose of this section is to provide an optional form that is in compliance with the Labor Code and regulations for an employee to use when designating his or her personal chiropractor or personal acupuncturist. The purpose is also to advise the employee of the requirements that allow an employee to change his or her treating physician to the employee’s personal chiropractor or acupuncturist following a work-related injury or illness.

Necessity:

The notice of personal chiropractor or personal acupuncturist form is necessary because it provides employees with the option of using a form that meets the statutory requirements. If an employee desired to treat with his or her personal chiropractor or personal acupuncturist but failed to do so either because he or she did not know how or failed to properly notify the employer of his or her selection, the injured worker would lose the right to be treated by his or her personal chiropractor or acupuncturist. Additionally, the right to predesignation under Labor Code section 4600 may be confused with the requirement of Labor Code section 4601 to notify the employer of the personal chiropractor or acupuncturist prior to the injury. Therefore, this section is necessary to clarify Labor Code sections 4600 and 4601.

Consideration of Alternatives:

No more effective alternative to any of the definitions, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time.

8. Repealed Section 9784. Duties of the Employer.

Specific Purpose of Section 9784:

The purpose of repealing this section is to prevent duplicative sections now that the duties of the employer are set forth in the sections 9780.1 and 9781.

Necessity:

Section 9784 is no longer necessary because the duties of the employer are set forth in the sections 9780.1 and 9781.

Consideration of Alternatives:

No more effective alternative to any of the definitions, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time.